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Docket No.: PHRM0002-104
PATENT

Appl. Number: 10/736,048
Filed: 12/15/2003

REMARKS

Status of the Claims

Claims 63-76 are in the application.

Claims 63-76 are subject to a restriction requirement.

By way of this amendment, claims 64 and 69 have been amended and new claims 77-82 have been added.

Upon entry of this amendment, claims 63-82 will be pending.

Summary of the Amendment

Claims 64 and 69 have been amended to correct an obvious error. Support for the amendment is found on page 100 of the specification.

New claims 77-82 correspond to claims 70-76 with the additional limitation of being dependent on claim 64.

No new matter has been added.

Restriction Requirement

Claims 63-76 are subject to a restriction requirement. It is asserted that the claims contain five distinct inventions. Applicants agree that the claims comprise subject matter which is patentably distinct but respectfully urge that the restriction requirement be withdrawn. Claim 63 is generic, as are claims 70-75 which are directly dependent on claim 63, and as is claim 76 which is dependent on claim 75. Claim 64 is directly dependent on claim 63, is in Markush format and refers to five species. Claims 65-69 are each directly dependent on claim 63 and each set forth a single one of the five species set forth in claim 64.

Applicants respectfully urge that the five patentable distinct species are joined by the generic claim 63. An allowable generic claim may link a reasonable number of species embraced by it (see 37 CFR 1.141(a) and MPEP 802 and 806.04). Moreover, claim 64, which is a method claim, provides a Markush group in which each of the five members share a common property (they are allostatins) that is disclosed in the specification which is mainly

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responsible for their function in the claimed relationship and it is clear from their very nature, or from the prior art that all of them possess this property (see MPEP 803.02).


Applicants provisionally elect Group V which includes claim 69 that is directed to the species in which the allostatin used in the claimed method is SEQ ID NO:161. This provisional elected is respectfully made with traverse. Applicants urge, for the reasons set forth above, that the restriction requirement is improper and notes that claims 63 and 70-76 are generic and that claim 64 refers to reasonable number of patentably distinct species which share a common property responsible for their function in the claimed relationship.

Conclusion

In view of the foregoing, Applicants submit that claims 63-82 are allowable. A notice of allowance is earnestly solicited. Applicants invite the Examiner to contact the undersigned attorney at 215.665.5592 to clarify any unresolved issues raised by this response.

As indicated on the transmittal accompanying this response, the Commissioner is hereby authorized to charge any debit or credit any overpayment to Deposit Account No. 50-1275.

Respectfully submitted,



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